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Report of the Secretary-General on the progress made with regard to the stabilization of and restoration of constitutional order in Guinea-Bissau

I. Introduction

1. The present report, submitted pursuant to Security Council resolution 2203 (2015), contains an assessment of the progress made by Guinea-Bissau with regard to the stabilization of the country and the restoration of constitutional order. Also provided herein, pursuant to the same resolution, are recommendations on the continuation of the sanctions regime in the post-election environment, in line with paragraph 12 of resolution 2048 (2012).

2. The Department of Political Affairs of the Secretariat undertook an assessment, in consultation with the United Nations Integrated Peacebuilding Office in Guinea-Bissau, from 22 June to 21 July 2015. Consultations were held with the President, the Prime Minister, the Minister of Defence and military chiefs, the President of the National Assembly and the President of the Supreme Court, as well as with representatives of Angola, Brazil (Chair of the Guinea-Bissau configuration of the Peacebuilding Commission), China, France, Guinea-Bissau, Morocco, Nigeria, Portugal, the Russian Federation, Senegal, Spain, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the African Union, the Economic Community of West African States (ECOWAS), the European Union and the United Nations Office for West Africa and of civil society organizations (the Guinea-Bissau Human Rights League, the Youth Association for the Protection and Promotion of Human Rights, the Justice and Peace Commission and the Women's Political Platform). Some of the individuals designated by the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau were also interviewed to obtain their views on the sanctions measures applied against them.

II. Key findings

3. United Nations sanctions, adopted about a month after the coup d'état of 12 April 2012 in Guinea-Bissau, were a swift and decisive act of conflict prevention by the Security Council. Three years later, the sanctions regime continues to have an impact on the 11 designated individuals and a deterrent effect on other potential political spoilers. Although not completely enforced, the travel ban did make it more

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difficult for listed individuals to travel in the region for the purposes of garnering support for another coup.

4. Moreover, the sanctions have had a psychological and stigmatizing effect on the designated individuals, having conveyed the opprobrium of the international community for their unconstitutional actions in connection with the coup d'état. The maintenance of the sanctions regime signals a continuing commitment on the part of the Security Council to encouraging the rule of law and efforts to combat impunity. United Nations sanctions are widely regarded as the only serious measure holding the coup leaders accountable for their actions.

5. Since the adoption of the sanctions regime, Guinea-Bissau has made progress. Today, there is a legitimate, competent, inclusive and democratic Government that has ushered in a period of optimism and hope for the country. The Government has shown the political will to implement many of the necessary reforms in the defence, security and judicial sectors and continues to enjoy the support of the international community.[1]

6. While Guinea-Bissau is on a path to recovery, neither national nor international actors can afford to be complacent. As I indicated in my report of 19 January 2015 (S/2015/37), the root causes of instability have not been addressed and the return to constitutional order since the elections of 2014 is still fragile and will need to be maintained. In addition to those root causes, the ability of the elected authorities, in particular the President, the Prime Minister and the President of the National Assembly, to work together constructively still requires close and sustained regional and international support.

7. For those reasons, Guinea-Bissau will continue to benefit from the support of the Security Council in order to deter any potential spoiler within or outside the military who may wish to obstruct or undermine the required reform process outlined in the Government's Strategic and Operational Plan 2015-2020.

8. The current sanctions regime remains relevant to the situation in Guinea-Bissau. Resolution 2048 (2012) sends an unequivocal message to all political actors that the sanctions framework required for the Security Council to take action against any political spoiler is already in place. The designation criteria established in paragraph 6 of the resolution allow the Committee to act against anyone who undermines constitutional order, stability or the rule of law, curtails the primacy of civilian power or furthers impunity in Guinea-Bissau.

9. To assist the Security Council and the Committee in their work and to send a clear signal that the Council remains vigilant against those who may seek to threaten the country's stability and constitutional order, the Council may wish to consider the establishment of a two-person panel of experts, take steps to review the

[1] By its resolution 2203 (2015), the Security Council amended the focus of the United Nations Integrated Peacebuilding Office in Guinea-Bissau and extended its mandate until 29 February 2016. Donors pledged $1.2 billion at the international partners' round table for Guinea-Bissau, held in Brussels on 25 March 2015, in support of the Government's Strategic and Operational Plan 2015-2020. The European Union has lifted the measures imposed under article 96 of the Cotonou Agreement, which had limited its aid to the country following the attempted coup d'état in April 2012, while ECOWAS has extended the mandate of the ECOWAS Mission in Guinea-Bissau until 31 December 2015.

listed individuals to determine whether they continue to meet the designation criteria and establish clear benchmarks for the lifting of sanctions.

III. Sanctions in Guinea-Bissau

10. On 18 May, the Security Council adopted resolution 2048 (2012), by which it put in place a travel ban against five high-ranking military officers of the "Military Command" who had carried out a coup d'état a month earlier (Ibraima Camara, António Injai, Estêvão Na Mena, Daba Naualna and Mamadu Ture). The adoption of the resolution was preceded by an immediate condemnation of the coup by the Council the day after it occurred and a presidential statement issued on 21 April in which the Council demanded the immediate restoration of constitutional order, the reinstatement of the legitimate Government and the resumption of the electoral process of 18 March 2012 (S/PRST/2012/15). Two months later, on 18 July, the Committee approved the designation of six additional individuals (Sanha Clussé, Cranha Danfa, Idrissa Djaló, Tchipa Na Bidon, Tcham Na Man and Júlio Nhate), all members of the "Military Command". On 4 and 5 April 2014, International Criminal Police Organization-United Nations Security Council Special Notices were issued for all 11 designated individuals, made possible by an agreement that the Committee signed with the International Criminal Police Organization in March 2014.

11. The adoption of the sanctions regime was particularly swift and decisive, even as regional and international partners (all committed to a policy of zero tolerance with regard to coups) approached the crisis from various perspectives and discussed different courses of action. Those differences notwithstanding, the broad contours of an approach to the crisis emerged, which included mediation efforts followed by the brief imposition of targeted sanctions by ECOWAS[2] and the deployment of a contingent of the ECOWAS Standby Force to Guinea-Bissau. The European Union, a key development partner of the country, imposed a travel ban and an asset freeze on several individuals. The African Union, the Community of Portuguese-speaking Countries and the International Organization of la Francophonie suspended Guinea-Bissau from their activities. The African Development Bank and the World Bank suspended development operations in the country pending the restoration of constitutional order. Throughout the next three years, the harmonization of efforts among key regional and international partners, including the Community of Portuguese-speaking Countries, the United Nations, ECOWAS, the African Union and the European Union, remained a recurring theme.

12. Against that backdrop, the signing, on 18 May 2012, of an ECOWAS-mediated political agreement by the "Military Command" and 25 political parties ushered in a tenuous transitional arrangement and divided the international actors supporting Guinea-Bissau. The exclusion of the country's largest political party, the African Party for the Independence of Guinea and Cabo Verde (PAIGC), raised serious

[2] ECOWAS leaders put the military junta on notice that, if it failed to comply with the conditions put forward within 72 hours, the organization would immediately impose targeted sanctions on its members and their associates, as well as diplomatic, economic and financial sanctions on Guinea-Bissau. On 29 April 2012, ECOWAS imposed diplomatic, economic and financial sanctions on Guinea-Bissau after talks in Banjul between foreign ministers of the ECOWAS Contact Group on Guinea-Bissau and the political stakeholders in Guinea-Bissau failed to agree upon an arrangement to return the country to constitutional rule within 12 months. The sanctions were lifted once such an agreement was reached.

questions as to the legitimacy of the transition and was seen by some as not being in compliance with resolution 2048 (2012). The transitional political landscape improved only after 17 January 2013, when PAIGC and its political allies signed a political transition pact and political agreement. In the months that followed, key political stakeholders agreed to arrangements for the remainder of the transition, including the adoption of a new consensual transitional pact and political agreement, in addition to a transitional road map, the appointment of a more inclusive transitional Government, new leadership of the National Electoral Commission and the holding of elections.

13. The people of Guinea-Bissau voted in presidential and legislative elections on 13 April and 18 May 2014. The episodes of political intimidation and serious human rights violations in the lead-up notwithstanding, the elections were successful and the relative calm that followed was a crucial milestone in the return to constitutional order. The President, José Mário Vaz, and the Prime Minister, Domingos Simões Pereira, both belong to PAIGC, which retained its leading position in the National Assembly with 57 of the 102 seats.

14. It is difficult to isolate the contribution of United Nations sanctions to the restoration of constitutional order. On the one hand, it appears that they had limited impact on members of the "Military Command". In the initial phases of the transition, not only did the "Military Command" fail to relinquish its position of authority, but the military also continued to involve itself in the country's political and judicial affairs. Subsequently, reports emerged that some of the designated individuals had even travelled to countries in the region. General Injai and many of his fellow officers also remained in their positions throughout the transition period, while eight sanctioned individuals were promoted. At the time of writing of the present report, 6 of the 11 designated individuals (Ibraima Camará, Sanha Clussé, Tcham Na Man, Estêvão Na Mena, Daba Naualna and Mamadu Ture) retained the same appointment within the military that they had following the events of April 2012.

15. However, while the implementation of the travel ban was imperfect, it was not completely ineffective. Its application to members of the "Military Command" prevented them from travelling easily throughout the region for the purposes of garnering support. On 18 September 2012, following reports that General Injai had travelled to Côte d'Ivoire and Mali, transiting through Senegal, the Chair of the Committee wrote to both Côte d'Ivoire and Senegal, which confirmed the violation and committed themselves to taking steps to prevent a reoccurrence. With the exception of Colonel Idrissa Djaló (who remains in the Gambia), all the individuals claimed that the travel was for medical reasons, for which exemptions might have been granted by the Committee had they availed themselves of the provisions in paragraph 5 of resolution 2048 (2012). One designated individual sought to travel to a European country for medical treatment, but was denied a Schengen visa to enter Europe.

16. Moreover, the impact of the United Nations sanctions on those 11 designated individuals went beyond limiting their freedom of movement. Colonel Idrissa Djaló travelled to the Gambia after he was nominated as ambassador to that country by the Transitional Government, but his credentials were not received, although he remains in the country. At a crucial time for the return to constitutional order, the travel ban was used to disqualify some designated individuals from running as candidates in the elections of 2014. On 15 September 2014, responding to national and

international pressure to reform the defence and security sector, the President issued a decree in which he dismissed General Injai as the Chief of General Staff of the armed forces. The Government has also taken other steps with regard to security sector reform, most notably the launch of a national security sector reform plan by the Minister of Defence on 14 September 2014.

17. The United Nations sanctions have also had a significant psychological impact on the targeted individuals, who said that they felt ostracized and described the measures as an ignominious stain on their professional and personal record. General Injai, for example, made several public statements regarding the humiliation that he would feel if he were intercepted if he sought to travel.

18. While many of the designated individuals continued to hold prominent posts in the armed forces, their status as sanctioned individuals was nevertheless felt because they were excluded from military courses, ceremonies, receptions and other events by most embassies in Guinea-Bissau. According to a civil society interlocutor interviewed, one sanctioned individual experienced multiple negative consequences following the imposition of sanctions against him. He was said to have lost friends, been unable to obtain his doctorate and even lost the lease on his rental house.

19. By 2014, the sanctioned individuals were observed to be exhausted and were considering leaving the armed forces, an effect attributed to the sanctions and international pressure.

20. From the perspective of the people of Guinea-Bissau, the United Nations sanctions also represented the support of the Security Council for the rule of law and efforts to combat impunity. They are widely regarded as the only serious measure holding the coup leaders accountable for their actions. Aside from the sanctions against the designated individuals, ordinary citizens have not yet seen the perpetrators of the coup or the perpetrators of human rights violations face serious consequences. The sanctions are therefore seen by the public as an important accountability measure that supports the broader reconciliation process.

IV. Progress towards the stabilization of the country and the restoration of constitutional order

21. Since the elections of April/May 2014, Guinea-Bissau has made steady progress in the restoration of constitutional order and a start towards the difficult processes of security and justice sector reform. In 2014, its progress included the launch of a national security sector reform plan and the establishment of a committee on demobilization, the adoption by the Government of a priority plan, the appointment of an inspector general to combat corruption, the reactivation of the ad hoc Commission for Constitutional Review the dismissal of General Injai and other changes at the senior command level of the military, changes at the Ministry of Justice, the appointment of a new general prosecutor, and the appointment of a new head of the police.

22. In the eyes of the public and the international community, those early reform efforts were bolstered by the promulgation of a decree law that amended existing legislation on a special pension fund for the armed forces and security institutions, when the members of the ad hoc Commission for Constitutional Review took office

in February 2015 and when the Secretary of State for International Cooperation and Communities was arrested in connection with an investigation into the illicit issuance of passports during the transition. Amid those encouraging signs, international donors pledged $1.2 billion at the international partners' round table for Guinea-Bissau, held on 25 March 2015, in support of the Government's vision and strategy and its Strategic and Operational plan 2015-2020.

23. Those positive developments notwithstanding, Guinea-Bissau remains at a crossroads. As I reported in my strategic assessment (S/2015/37), the potential for relapse into instability and unconstitutionality will remain high as long as the root causes remain unaddressed. Those root causes lie in a complex interrelation of four main factors: political-military dynamics; ineffective State institutions and the absence of rule of law; poverty and lack of access to basic services (in particular for women and young people); and impunity and human rights violations. Even with considerable international support, it will take time for the country to overcome those significant challenges.

24. Beyond the structural root causes of instability, the ability of the elected authorities to work together remains a key concern. For example, during the assessment, active diplomatic efforts by key bilateral, regional and international partners were needed to help to defuse tensions between the President and the Prime Minister, which culminated in a motion of confidence in the Government unanimously adopted by the National Assembly on 25 June 2015.

25. In January 2015, I reported to the Council that the President, the Prime Minister and the President of the National Assembly held consistent views regarding the key priorities of the country and the vision for its future. The implementation of the Government's priority plan will require compromise and statesmanship from those elected authorities to overcome the predictable resistance to change.

26. A collaborative relationship among the elected authorities will be required to steer the country with a sense of common purpose to take the decisions needed in the reform processes. An unravelling of the political consensus within the Government and an exacerbation of tensions between the main political leaders could impede essential reform efforts and increase the possibility of military interference in the affairs of the Government or, worst of all, a coup d'état.

V. Recommendations on the continuation of United Nations sanctions

27. The State-building process in Guinea-Bissau is nascent. The country faces extreme levels of poverty and the social contract is weak. Since its independence in 1974, the country has never seen a Government complete its term in office. The political instability has been accompanied by repeated serious human rights violations, including politically motivated assassinations, abductions, cases of torture, arbitrary arrests, the detention of political opponents and civil society representatives and restrictions on freedom of expression and assembly.

28. Given that history, the unresolved root causes of instability and the still-recent return of constitutional order, the Security Council needs to remain vigilant to any potential for relapse. To date, the sanctions regime has been a unique example of conflict prevention by the Council. United Nations sanctions, complemented by

other international support and pressure, were applied when the political and security situation in the country was critical but not yet catastrophic. In recognition of the encouraging but fragile progress, it is my assessment that the Council may wish to maintain the sanctions regime in order to support the consolidation of constitutional order and stability in Guinea-Bissau.

29. The sanctions regime outlined in resolution 2048 (2012) remains relevant to the context at hand. The designation criteria established by the Security Council already allow the Committee to act against anyone who undermines constitutional order, stability or the rule of law, curtails the primacy of civilian power or furthers impunity. The Council may wish to maintain the current designations and send a clear message to everyone in Guinea-Bissau that the sanctions regime is applicable to all spoilers, regardless of their political or institutional affiliation, and that the Council stands ready to adopt additional sanctions measures and designations, as and when required.

30. To enable the Security Council to be able to take action against those who may undermine the State-building and peacebuilding process, the Council may wish to consider the establishment of a two-person panel of experts. Such a panel could promote greater awareness in Guinea-Bissau of the sanctions regime. Its existence would signal to would-be political spoilers that the Council is closely monitoring developments. Should the Council decide to establish such a panel, it could mandate the panel to identify those who meet the designation criteria for targeted measures. Specific attention could be paid by the panel to those who undermine the process of national dialogue and reconciliation, perpetrate acts of human rights violations, impede the security sector and judicial reform processes, undermine the process of State-building and peacebuilding through corruption and organized crime and misappropriate the country's natural resources.

31. A focus on corruption and natural resources by the panel would be an important complement to the considerable financial investment that has been and will be made by international partners. The Security Council has taken such an approach in its sanctions regime in Somalia. Reporting by the Monitoring Group on Somalia and Eritrea on financial and resource issues has been extremely useful to the Federal Government of Somalia, the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea and the international community to address corruption and diversion of aid in Somalia.

32. Sanctions are not an end in themselves; the Security Council could consider establishing clear benchmarks for the lifting of sanctions in Guinea-Bissau. They may include the completion of the retirement and demobilization process of identified military and security personnel and the consolidation of civilian control over the military, the completion of the national dialogue and reconciliation process, and the establishment of a justice system that is capable of investigating and prosecuting the serious crimes committed since 2009. The panel of experts proposed above would be well placed to monitor progress against any benchmarks set.

33. At an appropriate time, the Security Council and the Committee may wish to review the sanctions list to ascertain whether the 11 listed individuals continue to meet the designation criteria. Such an approach is important to respect the due process rights of any individuals on United Nations sanctions lists. The panel of experts proposed above would also be extremely helpful in such an exercise, including by informing designated individuals of the ways in which they could

apply for delisting. Such a review, and any potential removal from the sanctions list, should take into account the ability of the national justice system to hold perpetrators of the coup and other human rights violations to account.

34. Three years ago, Guinea-Bissau was a divided country. Today, with an inclusive Government, it has taken its proper place on the international stage. Continued attention by the Security Council, including through the Committee, remains vital for the consolidation, respect for and maintenance of constitutional order, democratic governance and stability in Guinea-Bissau.